



GLENN ARMENTOR
W. PAUL HAWLEY
REBEKAH R. HUGGINS
HARRY K. BURDETTE
J. CHRISTIAN LEWIS
JEREMY "JAY" SUIRE
RICHARD E. SMITH
DEBRA J. SCADDEN
CURTIS L. HOLLINGER, JR.
STEPHEN C. GAUBERT
JOHN PAUL CHARBONNET
C. ROAN EVANS

THE GLENN ARMENTOR LAW CORPORATION
A PROFESSIONAL LAW CORPORATION

Paralegals:
WAYNE LEMOINE
PAM BRIGGS

February 17, 2009

TO: All Train Derailment Clients
of the Glenn Armentor Law Corporation

RE: *Current Status of Train Derailment Cases in the United States District Court*

Dear Client:

This letter is in follow up to our previous update correspondence of November 24, 2008. At that time, we reported that the claim forms filled out by our clients, with all attachments inclusive of housing and motel bills, medical records, medical bills and other attachments, had been submitted to the Federal Court in Lafayette, as required by Judge Richard Haik. That submission was made on time per the Judge's Order, in all 450+ cases our law firm represents.

Since that time, Judge Haik's staff has been reviewing the claims forms to determine the extent of damages involved in this train derailment incident. Judge Haik had stated that he wanted to review the severity of injuries and damages in this case prior to determining whether or not he would give this set of cases what is known as "class action status". A certification of being a class action renders cases like this more likely to be settled "globally" (all at one time) rather than having to be tried separately. This will be important in our train derailment cases, because damages are limited, and we do not want to pay court costs in each case that take away from the ultimate recovery of each individual claimant.

Attached to this letter, you will find the following documents, to-wit:

1. My letter of October 31, 2008 to Judge Haik, wherein we submitted, per the Order of the Court, 454 claims forms for the claimants we are representing, with all attachments;
2. The November 18, 2008 letter of Jack McElligott, the defense attorney representing the BNSF Railway Company, our defendant and the liable party in this case, which states that railway is interested in discussing a settlement of our particular clients' cases and wants access to our claims forms;
3. My letter of December 2, 2008 wherein I respond to Mr. McElligott's request and wherein I request a meeting with Judge Haik so that we can hopefully put together a

global settlement of all cases at one time, which would be a great deal more financially appropriate and efficient in reducing our expenses for each case from each clients' recovery;

4. The December 8, 2008 letter of Mr. McElligott setting out that BNSF Railroad Company will probably oppose claims from claimants who resided outside the evacuation zone at the time of the derailment;
5. An inter-office Memo to me from Harry Burdette, one of our train derailment attorneys here at the firm, noting and including a computer printout from Weather Underground, an online weather report data base, for the days of May 16th , 17th and 18th of 2008, which gave us a detailed, practical minute by minute report of the temperature, dew point, humidity, and most pertinently the wind speed and direction in Lafayette, which would determine whether or not neighborhoods outside the one mile evacuation area would have been effected by the hydrochloric acid fumes and residue blown in that direction; and
6. My letter of January 7, 2009 to Mr. McElligott, noting that many of our clients reside outside the one mile evacuation zone and were detrimentally effected by the train derailment with symptoms and injuries directly therefrom, which will have to be dealt with in our ultimate settlement negotiations.

Judge Haik has now given permission for the claims forms to be produced to the attorneys representing the railroad so that they may begin reviewing, categorizing and evaluating each individual claim. Here at our firm, 7 of our 12 attorneys are involved in the train derailment litigation. We refer to ourselves as the "Train Team."

Please be advised that we have met with other attorneys for other law firms representing other cases in order to coordinate our efforts for obtaining a global settlement of all cases, if that is possible, so that we can limit the expenses to each case involved in this important matter.

Our "Train Team" met with the attorneys for the railroad, here in our office, on Tuesday, January 27, 2009. The railroad attorneys, Jack McElligott and Kyle Gideon, have offices that are located in Lafayette. During that meeting, the attorneys for the railroad admitted that the railroad was liable in allowing the train derailment, since it was their rail that failed and resulted in the fracture of their railway car, leading to exposure to the various neighborhoods of hydrochloric acid. As a result, the railroad's liability will not be an issue at trial. They will admit fault, subject to all plaintiffs proving that exposure to their chemicals caused injuries and symptoms and resulted in damages. We are currently attempting to obtain the Federal Railway Administration report on liability.

The process for the review of the claims forms will begin shortly, with each individual form being electronically scanned, with all of its attachments (such as medical records, medical bills, motel receipts, grocery and gas receipts and proof of lost wages or income). By having all of this information in a digital computer format, all parties will find it easier to access, review and analyze each claim Train Derailment Status Update

form. Another function of the scanning process will be to mark each claim form through a geo-coding software program. This will identify on a map the exact location of each claimant on the date of the train derailment incident, which will be very important in determining which claimants were in the most vulnerable positions at the time of the event, and which areas were most affected.

Once the railroad attorneys have reviewed all of the forms, our “train team” will meet with them on a regular basis to discuss, debate and come to an agreement, hopefully, on a definitive scoring criteria to establish an acceptable range of evaluation for each claim based upon a number of ‘severity of impact’ factors. Our “train team” feels that these factors should include the following:

1. Location inside or outside of the evacuation area at the time of the derailment;
2. Evacuation with no out-of-pocket expenses;
3. Evacuation with out-of-pocket expenses for lodging, food and clothing;
4. Loss of income or earnings;
5. Exposure to chemical vapors;
6. Exposure to chemical vapors and the need to seek emergency room treatment at local hospitals;
7. Exposure to chemical vapors and the need for additional follow-up treatment due to lingering conditions and symptoms, with healthcare providers;
8. Damage to property, including pets and livestock.

A separate category of cases will include those businesses within the affected area that were damaged by derailment and subsequent exposure to the gas, resulting in loss of income, profits, customer base, property or employee base.

Our “train team” will take the position that a claim will be evaluated on these types of scoring criteria, and that, the more of these criteria that are applicable to an individual claim, the higher the evaluation of the claim should be. We have not yet reached agreement with the railroad attorneys concerning these criteria or these categories.

We are taking the position that all of the cases we represent should be settled at one time because it would be expensive to try them individually. Our review of all cases resulting from this event shows that there were no deaths, no truly serious or debilitating injuries, no disabilities that resulted and that each of the cases, while appropriate and valuable, were not major injury cases that would allow for the large expenses involved in trial. Because of this, the “train team” will take the position that all of the claims that have been generated through our office should be reviewed, scored and evaluated as a whole. The railroad may want to enforce the argument that some claims should be settled quickly on an individual basis, but this will have the effect of diminishing the bargaining power of the firm on behalf of all of its claimants. The team feels that there is “power in numbers” and will fight to keep all of our claims together as a whole group. This will provide leverage when the time comes to mediate and attempt to come to a final resolution and a global settlement amount which can be distributed accordingly to each claimant based upon his or her “severity of impact”.

Train Derailment Status Update
February 17, 2009

On Thursday, February 12, 2009, our "train team" met with Judge Richard Haik and the attorneys for BNSF at the federal court chambers of the judge. The purpose of the meeting was to facilitate early settlement negotiations by allowing the railroad attorneys to take possession of our clients' forms and attachments so that they could begin their review of our claims. Both sides agreed to the hiring of a technical consultant who will electronically scan all claims forms for all attorneys and also use "geo-coding" software to determine the exact location of all our claimants at the time of the derailment event. The consultant will also assist in creating a spreadsheet that lists categories of damages such as:

- 1) forced evacuation
- 2) location of exposure
- 3) symptoms suffered
- 4) emergency room and a physician care, and
- 5) lost wages

Our goal remains to produce a global settlement that takes into consideration all damages incurred and proven. This process will take time, but there is positive motion in the direction of settlement of your cases

You may go to our law firm's web page at www.glennarmentor.com and click on the "More Information" link at the bottom of the home page for up-to-date reports on the train case as they accrue in the immediate future. Additionally, should you have questions or need further information, please call the attorney handling your case here. We will anticipate moving this case forward as quickly as we possibly can and hopefully reaching a conclusion of some type within the next several months.

Most sincerely,

**GLENN J. ARMENTOR
HARRY K. BURDETTE
JEREMY "JAY" SUIRE
CURTIS L. HOLLINGER, JR.
REBEKAH R. HUGGINS
STEPHEN C. GAUBERT
DEBRA J. SCADDEN**

Enclosures